IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

Writ Petition No.8295 of 2005

Samarth Sah Bank Ltd Solapur .Petitioner

vs

Smt Swati J Khasnis & ors..Respondents

Mr Sushil Nimbakar for petitioner

Dr D.R.Talankar for respondent nos.l to 3

CORAM: S.U.KAMDAR J.

Dated 8.l2.2005

P.C:

l. By consent of the parties the impugned order dated l.l0.2005 is set aside and the recovery certificate dated 3.l.200l passed in application no.l82 of 2000 as against all the partners including the respondents herein.

2. However both the parties agree that the recovery certificate will not be executed against the respondent nos.l to 5 as they will deposit a further sum of Rs.5,000 within a period of four weeks from today. A sum of Rs 8 lacs which is already deposited with the bank plus additional amount of Rs. 5 lacs to be deposited will be will be adjusted by the bank towards the recovery certificate. In respect of the balance claim under the recovery certificate is concerned the learned

counsel for the petitioner-bank states that they will first execute the same against the respondent nos. 6,7, and 8 which is a partnership firm and continuing partners and only if after recovery of the aforesaid amount from the respondent nos. 6 to 8 in execution being insufficient the deficit if any would be recovered by executing the certificate against the respondent nos l to 5 also. Till the entire recovery certificate is satisfied attachment of the flat of the respondent nos.l to 5 will continue and the respondent nos.l to 5 will not be entitled to sell the same. If the deficit is not recovered then the petitioner bank to proceed against the assets of the respondent nos l to 5 subject to the right of the respondent nos.l to 5 to contend that the same does not belong to the retired or deceased partners. Attachment of all other assets of the respondent nos.l to 5 stands raised and attachment of the assets of the respondent nos.6 to 8 to continue and execution as against them to proceed.

. The petition is accordingly disposed of with no order as to costs.